

## ARTICLE VI

### CONTRACTUAL ARRANGEMENTS

6.1. If either Party determines that Contracting is necessary to fulfill its obligations under the scope of work of this Agreement, that Party shall contract in accordance with its respective national laws, regulations and procedures. When applicable, contract administration services shall be performed in accordance with the Memorandum of Understanding between the Government of the United States of America and the Government of the French Republic concerning the Principles Governing Reciprocal Purchases of Defense Equipment of May 22, 1978, as amended.

6.2. When one Party individually contracts to carry out a task under this Agreement, it shall be solely responsible for its own contracting, and the other Party shall not be subject to any liability arising from such Contracts without its written consent.

6.3. The Parties have determined that the U.S. DoD's Contracting Agency shall enter into a Contract to procure a SPARTAN Core System funded by France. The Parties may also determine that one Party's Contracting Agency should enter into a Contract to fulfill their joint obligations or the obligations of the non-contracting Party. That Contracting Agency shall contract for both Parties in accordance with its national laws, regulations, and procedures. If necessary to meet the requirements of this Agreement, the DoD's Contracting Officer or the MoD Contracting Agency shall seek deviations from national regulations and procedures wherever possible. Sources from both Parties' industries shall be allowed to compete on an equal basis for such Contracts. The DoD Contracting Officer or the MoD Contracting Agency shall be the exclusive source for providing contractual direction and instructions to Contractors for Contracts awarded by that Party.

6.4. For all Contracting activities performed by either Party, the POs shall, upon request, be provided a copy of all statements of work prior to the development of solicitations to ensure that they are consistent with the provisions of this Agreement.

6.5. For all Contracting activities performed by either Party, each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), and Article XII (Third Party Sales and Transfers). During the Contracting process, each Party's Contracting Officer shall advise prospective Contractors of their obligation to notify the Contracting Agency immediately if they are subject to any license or agreement that will restrict that Party's freedom to disclose Project Information or permit its use. The Contracting Officer shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in such restrictions.

6.6. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information), or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Project Information, that Party's PO shall notify the other Party's PO of the restriction(s).

6.7. Each Party's PO shall promptly advise the other Party's PO of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

6.8. No requirement shall be imposed by either Party for worksharing or other industrial or commercial compensation in connection with this Agreement that is not in accordance with this Agreement.

## ARTICLE VII

### PROJECT EQUIPMENT

- 7.1. Each Party may provide, in accordance with its laws, regulations, and policies, Project Equipment identified as being necessary for executing the Agreement to the other Party. Such Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another Party shall be developed and maintained by the POs, approved by the SC, and shall be incorporated into this Agreement as a separate annex in accordance with Article IV (Management) prior to such transfers.
- 7.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay its replacement value as computed pursuant to the providing Party's national laws and regulations. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws and regulations.
- 7.3. All Project Equipment that is transferred shall be used by the receiving Party only for the purposes of carrying out the activities under this Agreement. In addition, in accordance with Article XII (Third Party Sales and Transfers) Project Equipment shall not be re-transferred to a Third Party without the prior written consent of the providing Party.
- 7.4. The providing Party shall deliver Project Equipment to the receiving Party at a mutually agreed location. Possession of the Project Equipment shall pass from the providing Party to the receiving party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.
- 7.5. Project Equipment transferred to one Party under this Agreement shall be returned to the providing Party prior to the termination or expiration of this Agreement.
- 7.6. Any Project Equipment which is jointly acquired on behalf of both Parties for use under this Agreement shall be disposed of during the Project or when the Project ceases, as agreed or directed by the Steering Committee or, if no Steering Committee is established, the POs.
- 7.7. Disposal of jointly acquired Project Equipment may include a transfer of the interest of one Party in the Project Equipment to the other Party, or the sale of such Equipment to a Third Party in

accordance with Article XII (Third Party Sales and Transfers). The Parties shall share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this Agreement or in a manner they determine to be fair at that time.

## ARTICLE VIII

### DISCLOSURE AND USE OF PROJECT INFORMATION

#### 8.1. General

- 8.1.1. Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to enable collaboration on basic, exploratory, and advanced technologies the maturation of which may lead to the development of technologically superior systems. The nature and amount of Project Information to be acquired shall be consistent with the objectives and scope stated in this Agreement.
- 8.1.2. The U.S. DoD has obtained the consent of the Singapore Ministry of Defence (MINDEF) for the U.S. to release to France Project Information generated in or provided to the U.S. DoD – Singapore MINDEF SPARTAN Project Agreement. The French MoD consents to the transfer by the U.S. DoD to the Singapore MINDEF of Project Information generated in or provided to this PA. In exchange for the development of the NBC submodule for the ISR/FP module, and notwithstanding paragraphs 8.3.2 and 8.5.2 below, the U.S. shall grant defense purpose use rights to France for the ISR/FP project information.

#### 8.2. Government Project Foreground Information

- 8.2.1. Disclosure: Project Foreground Information generated in whole or in part by a Party's military or civilian employees shall be disclosed without charge to both Parties.
- 8.2.2. Use: Each Party may use or have used on its behalf all Government Project Foreground Information without charge for its Defense Purposes. The Party generating Government Project Foreground Information shall retain its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.

#### 8.3. Government Project Background Information

- 8.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

- 8.3.1.1. such Government Project Background Information is necessary to or useful in the Project. The Party in possession of the information shall determine whether it is "necessary to" or "useful in" the Project;
  - 8.3.1.2. such Government Project Background Information may be made available without incurring liability to holders of proprietary rights; and
  - 8.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.
- 8.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party for project purposes only. The furnishing Party shall retain its rights with respect to such Government Project Background Information.
- 8.4. Contractor Project Foreground Information
  - 8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors shall be disclosed without charge to both Parties.
  - 8.4.2. Use: Each Party may use or have used on its behalf without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall retain its rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information, shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.
- 8.5. Contractor Project Background Information
  - 8.5.1. Disclosure: Any Contractor Project Background Information, (including information subject to proprietary rights) generated and delivered by Contractors shall be made available to the other Party provided the following conditions are met:
    - 8.5.1.1. such Contractor Project Background Information is necessary to or useful in the Project. The Party in possession of the information shall determine whether it is "necessary to" or "useful in" the Project;
    - 8.5.1.2. such Contractor Project Background Information may be made available without incurring liability to holders of proprietary rights; and
    - 8.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

- 8.5.2. Use: Contractor Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party for the project purposes only, and it may also be subject to further restrictions by holders of proprietary rights. The furnishing Party shall retain its rights with respect to such Contractor Project Background Information.

8.6. Alternative uses of Project Information

- 8.6.1. The prior written consent of each Party's Government shall be required for the use of any Project Foreground Information for purposes other than those provided for in this Agreement.
- 8.6.2. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this Agreement, unless otherwise consented to in writing by the providing Party's Government.

8.7. Proprietary Project Information

- 8.7.1. All unclassified Project Information subject to proprietary interests shall be identified and marked, and it shall be handled in accordance with Article IX (Controlled Unclassified Information). All classified Project Information subject to proprietary rights shall be so identified and marked.
- 8.7.2. The provisions of the Agreement between the Government of the United States of America and the Government of France to Facilitate Interchange of Patent Rights and Technical Information for Defense Purposes, which was signed in Paris on March 12, 1957, shall apply to proprietary Project Information related to this Agreement.

8.8. Patents

- 8.8.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party which has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.
- 8.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

- 8.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.
- 8.8.4. Patent Applications that contain Classified Information to be filed under this Agreement shall be protected and safeguarded in accordance with the requirements contained in the Agreement Approving the Procedures for Reciprocal Filing of Classified Patent Applications in the United States of America and France, of July 10, 1959, and its Implementing Procedures.
- 8.8.5. Each Party shall notify the other Party of any Patent infringement claims made in its territory arising in the course of work performed under this Agreement. Insofar as possible, the other Party shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in a manner they determine to be fair at the time the Patent infringement claim is resolved. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.



## ARTICLE IX

### CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

- 9.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information).
- 9.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1., and shall be subject to the provisions of Article XII (Third Party Sales and Transfers).
- 9.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2., unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked. The Parties shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in the Project Security Instruction.

9.3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be handled in a manner that ensures control as provided for in paragraph 9.1.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure that the Contractors are legally bound to control such information in accordance with the provisions of this Article.

## ARTICLE X

### VISITS TO ESTABLISHMENTS

10.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need to know.

10.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.

10.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform to the established visit procedures of the host country. Requests for visits shall bear the name of this Agreement.

10.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

## ARTICLE XI

### SECURITY

11.1. All Classified Information provided or generated pursuant to this Agreement shall be stored, handled, transmitted, and safeguarded in accordance with the General Security of Information Agreement between the Government of the United States of America and Government of the Republic of France of 7 September 1977, and the Industrial Security Procedures between the Secretary of Defense of the United States and the French Minister of Defense of 21 May 1985.

11.2. Classified Information shall be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Parties. Such information shall bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this Agreement.

11.3. Each Party shall take all lawful steps available to it to ensure that information provided or generated pursuant to this Agreement is protected from further disclosure, except as permitted by paragraph 11.4., unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

11.3.1. The recipient shall not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Party in accordance with the procedures set forth in Article XII (Third Party Sales and Transfers).

11.3.2. *The recipient shall not use the Classified Information for other than the purposes provided for in this Agreement.*

11.3.3. The recipient shall comply with any distribution and access restrictions on information that is provided under this Agreement and its Annex.

11.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this Agreement has been lost or disclosed to unauthorized persons or other entities. Each Party also shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

11.5. The Designated Security Authority (DSA) of a Party that awards a classified Contract under this Agreement shall assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractor of any Classified Information provided or generated under this Agreement, the recipient Party shall:

- 11.5.1. Ensure that such Contractor, prospective Contractor, or subcontractor and its facility(ies) has the capability to protect the Classified Information adequately.
- 11.5.2. Grant a security clearance to the facility(ies), if appropriate.
- 11.5.3. Grant a security clearance for all personnel whose duties require access to the Classified Information, if appropriate.
- 11.5.4. Ensure that all persons having access to classified information are informed of their responsibilities to protect the information in accordance with national security laws and regulations, and the provisions of this Agreement.
- 11.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 11.5.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the Project.

11.6. The POs shall prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide shall describe the methods by which Project Information and material shall be classified, marked, used, transmitted, and safeguarded. The Project Security Instruction and Classification Guide shall be developed by the POs within three months after this Agreement enters into force. They shall be reviewed and forwarded to the appropriate DSA and shall be applicable to all government and Contractor personnel participating in the Project. The Classification Guide shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide shall be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

11.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this Agreement only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Party shall be consulted for approval prior to permitting such access.

11.8. For any facility wherein Classified Information is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information pertaining to this Agreement. These officials shall be responsible for limiting access to Classified Information involved in this Agreement to those persons who have been properly approved for access and have a need to know.

11.9. Each Party shall ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in this Agreement.

11.10. Information or material provided or generated pursuant to this Agreement may be classified as high as Confidential. The existence of this Agreement is UNCLASSIFIED and the contents are UNCLASSIFIED.